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September 14, 1999

Lester Snow, Executive Director
CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, CA 95814

Re: Draft Programmatic EIS/EIR

Dear Mr. Snow:

The CALFED Bay-Delta Program released a Draft Programmatic EIS/EIR with accompanying appendices as well as a Revised Phase II Report (PEIS, inclusive) for public review on June 23, 1999. The Program is seeking public input on potential solutions to the environmental and water management problems of the California Bay-Delta system outlined in these documents. The public review period is currently scheduled to end on September 23, 1999.

The County of Butte submits the following comments on the (PEIS) for your review and incorporation into the program solution. The County chose not to provide detailed technical comments on the legal deficiencies of the draft documents, but rather concentrates on pointing out how the program itself, as outlined in the draft PEIS, has the potential to negatively impact the County's infrastructure and economic tax base.

STORAGE

The PEIS provides for opportunities for new storage both above and below the Delta to enhance timing and flow management to more effectively and efficiently satisfy urban, agricultural and environmental beneficial users. The upper range for potential new storage considered for evaluation in the PEIS is six million acre feet, including up to three million acre feet of surface and groundwater storage above the Delta.

Increased storage would provide for new water supplies, not a reallocation of existing supplies from one area to another. The document speaks to the fact that an increased yield of real water realized through the construction of additional storage would be beneficial under all conditions to achieving the water supply reliability goals of the Program. However, CALFED maintains that the actual construction of additional storage will only be considered after all conservation measures have been exhausted and the proper conditions and linkages to water use efficiency have been demonstrated. To determine this, CALFED's Agricultural Water Use Efficiency approach has been modified to include a strategic plan that will be prepared on a region-by-region basis with targeted completion in early 2000. The plan calls for the assurances of a "high level of water use efficiency" and "widespread demonstration of efficient use" before storage will be constructed. However, these terms are only loosely defined in the PEIS with promises that they will be clearly defined before the Record of Decision. CALFED must (1) air its strategic plan to the public well before the final EIR/EIS is completed, (2) provide the aforementioned definitions concurrently, and (3) identify how the determination will be made that water use efficiency has been demonstrated. Given the current generalities of the program, it becomes difficult to demonstrate that water use efficiency improvements are adequate, thus to determine if further storage is needed. The County of Butte insists that CALFED must clarify these terms and present a definitive plan of action for the construction of new storage before the Record of Decision.

Additional storage not only addresses the issue of water supply reliability and various environmental needs such as the provision of greater control of stream flows necessary for improved fisheries, but also provides other benefits such as enhanced flood protection during extreme flood events. Increasing storage capacity to capture flood waters during high flow events can help prevent the associated loss of lives and property. When excess surface waters are controlled closer to their area of origin, significant damaging impacts down stream can be prevented. Although CALFED claims that their program was not charged with addressing flood control, additional storage for flood control needs to be a component of the CALFED Bay-Delta Program.

Increasing surface water supply will also contribute to greater protection of groundwater supplies targeted for transfer from one area for use in another area. It is imperative that CALFED not rely solely on the groundwater supplies of the Sacramento Valley to address the water shortages of the entire state. This practice would adversely impact the economic viability of these local communities reliant on the existing local groundwater supplies. The needs of Sacramento Valley communities must be considered first to protect their area of origin water rights. Increased storage is the only way to bring "new water" into the system rather than reallocating the existing supply. The concept of transferring water outside of Butte County without increasing the yield through additional storage is unacceptable.

Storage increases flexibility and control of releases for fish flow requirements as well as providing for greater capacity for high flood events. Also, the creation of new storage above the Delta helps increase water supply reliability by developing new water supplies which are imperative to the environmental and economic viability of the entire state. The CALFED program must provide assurances to the people of Butte County that they will begin construction of the proposed storage above the Delta as soon as possible and not merely continue to evaluate this option up to and during Stage II and Stage III of the program. The County of Butte insists that the construction of additional storage, both above and below the Delta, be a

required component of the CALFED Bay-Delta solution during Stage I. To that end, we request a breakdown of the associated time line on the construction of new storage both above and below the Delta as soon as possible to assure that the water supply problems of the entire state are not solved on the backs of the citizens of Butte County and other Sacramento Valley residents.

ECOSYSTEM RESTORATION PROGRAM (ERP)

The CALFED Bay-Delta Ecosystem Restoration Program is one element of the long-term comprehensive plan to restore ecological health and improve water management for beneficial uses of the Bay-Delta ecosystem. CALFED proposes providing funding and technical assistance to watershed programs and projects consistent with the CALFED goal of restoring the ecological processes associated with stream flow, stream channels, watersheds and floodplains.

While the PEIS states that this program will continue to strive for local control and input on the various projects, the County of Butte is concerned that local governmental and landowner interests are not being properly sought and considered. CALFED must not confuse working with local watershed conservancies with obtaining local government and landowner cooperation. These groups may represent only a very small portion of the total population and other interested stakeholders need to be sought and consulted.

In addition, as the elected representatives of the people, local government needs to take its place at the table for these programs to be successful. Unlike many watershed conservancies, elected officials represent, and are accountable to, all of the citizens of the county. In addition, their actions are required to be public and provide ample opportunity for public input under the mandates of the Brown Act. This process ensures that everyone has an opportunity to participate in, or at least be aware of, projects or programs that have the potential to impact their economy or quality of life.

The Board of Supervisors is the local land use authority. They are empowered to make decisions on land use changes such as those being promoted through the Ecosystem Restoration Program. Therefore, for the CALFED program to be successful, it will ultimately need to involve local government in watershed and restoration land use decisions. To ensure that CALFED funded programs are implemented, it is imperative that local government is involved in pre-planning activities such as the development of watershed management strategies and existing conditions reports. As the foundation for successful planning, these documents need to be objective, credible and solid. Participation and coordination by local government will contribute to the credibility of these documents and safeguard their usefulness in future implementation stages. In addition, absent funding for meaningful participation, the CALFED Program represents another unfunded mandate passed down to local government.

The County of Butte requests an elevated role for local government in this portion of the CALFED Bay-Delta program and oversight of projects that have the potential of impacting our citizenry. If the CALFED Bay-Delta program truly is seeking local input, they should encourage and fund participation by representatives of local governments and require all future projects to coordinate with their local governments.

The County of Butte also questions the concept of establishing a river meander corridor. The PEIS discusses setting back agricultural levees to promote and accommodate the natural meander of the river. Implementation of this proposed element of the program would result in taking up to 15,000 acres entirely out of agriculture production from the Chico Landing to Red Bluff. In addition, CALFED is proposing the creation of meander easements which will result in changing cropping patterns from orchards to low production row crops. This is an unacceptable loss and/or misuse of prime agricultural land in our county.

Although CALFED proposes to create this meander zone through the acquisition of land from willing sellers, the PEIS fails to adequately assess the associated impact on the local economy and tax base associated with taking these lands out of production. Even if this property loss provides for compensation to landowners, county services will still be negatively impacted by the loss of the associated tax revenue. This loss of revenue to the local economy will reduce our ability to fund health, safety and welfare programs for our citizens. It is imperative that CALFED address the issue of lost revenue to local government.

In addition, the creation of a river meander through acquisition of land from willing sellers has the potential of leaving pockets of land that may still be in production at an increased risk for damage from future flood events. This concept leaves the County of Butte with the burden of providing increased services in emergency flood situations with a reduced economic tax base available to the county general fund. Increasing our tasks while decreasing our tax base is unacceptable to the County of Butte.

In the discussion regarding the concept of establishing a river meander corridors, CALFED proposes eliminating bank protection, bridge piers and bridge abutments. Bank protection measures are essential to maintain river flows through existing bridge structures. Allowing the river to meander around a bridge may require an expansion or replacement of the bridge. Bridges and roads are essential for public safety and the transportation of commerce for the citizens of our county. The approach outlined in the PEIS has the potential of costing the County of Butte millions of dollars for associated infrastructure construction costs. In addition, it could take several years to gain approval and secure funding for these projects. All proposed meander belts must include site-specific analysis and mitigation of impacts for existing public roads and bridges within the designated zones. In addition, any future redesign of public roads and bridges must be accompanied by the funding necessary to accommodate these changes. CALFED must assume all financial responsibility associated with all aspects of their program. The County insists that future bridge designs incorporate protections for flood relief structures, pumping plants, fish screens, stream gages and by-passes.

Millions of dollars have been spent or allocated for pumping plant redesign and fish screens to accommodate the life cycle of various fish species. CALFED must be prudent in their evaluation of the meander zone to provide the necessary funding to protect these facilities as well as the infrastructure discussed above. An all encompassing evaluation is necessary before CALFED can justify the river meander concept.

The County of Butte suggests that the ERP be divided into several sequential sub-components such as data collection, data analysis, project design and implementation. Funding not allocated to a specific high

priority clean up project should not be dispersed until a sufficient body of data is available to complete an adequate cost/benefit analysis of all proposed competing projects. We caution against the disbursement of monies for restoration projects in a piecemeal fashion without adequate data to substantiate them. This practice does not allow for the appropriate evaluation of the associated benefits of the independent projects through monitoring. When several projects or programs are implemented in a specific area simultaneously, it becomes impossible to identify which projects resulted in which benefits. Continuation of this practice is a mis-use of public funding.

It is imperative that CALFED assess all potential impacts associated with the Ecosystem Restoration Program. The potential economic and public safety impacts could be devastating to rural economies like the County of Butte. The PEIS is inadequate in addressing associated negative impacts to our local economy that will result in the reduction of our ability to provide adequate health, safety and welfare programs for our citizenry. Further, restoration funding should be linked to sufficient data regarding the potential benefits of competing projects and not undertaken without supporting data in a piecemeal fashion.

AREA OF ORIGIN WATER RIGHTS

The CALFED Bay-Delta program proposes to support the concept of Area of Origin water rights in the PEIS. The County of Butte encourages this approach and requests that CALFED work with local governments and private landowners to ensure proper management of our water resources at the local level by incorporating the policies of local general plans and zoning ordinances into the Bay-Delta solution.

The County of Butte is very concerned that Area of Origin water rights are not being considered as provided for in the California Water Code. Area of Origin statutes were designed to protect the rights to water in areas where the water originates. Butte County, having both the Butte Basin and Lake Oroville, in addition to the Butte Basin groundwater supplies, is the Area of Origin for much of California's water supply.

In addition, Butte County voters passed a groundwater protection ordinance in November 1996. Any policies developed by CALFED need to abide by this voter mandate which was developed to protect local groundwater supplies. Any conjunctive use/groundwater banking program developed by CALFED must contain a formal agreement between local, state and federal agencies to ensure that local supplies are not diminished, local ordinances are upheld and Area of Origin Water Rights are preserved.

The County of Butte requests that the CALFED program provide for local control and abide by Area of Origin water rights. Preserving our current water supply is essential for the rich quality of life and continued economic success within Butte County and throughout northern California.

FINANCING

The County of Butte is very concerned about continued financing for the various components of the CALFED Bay-Delta Program. The Program proposes to develop financial strategies and cost-sharing for all of the many aspects of the Program. However, none of these funding sources is secured for the life of the Program.

For instance, in the Watershed Management Program document, there is discussion about "program development and implementation without creating a dependency on public funding". How does CALFED propose to maintain the various watershed management and ecosystem programs without continued financial support? More specifically, when this restoration has taken place and public funding is no longer available, what entity will be responsible for the maintenance and upkeep?

The concept of "beneficiaries pay" is raised throughout the implementation document. CALFED maintains that this approach encourages beneficiaries to more carefully review their water needs and the associated costs of proposed programs but admits that it may be difficult to assess who the true beneficiaries may be.

The discussion regarding the various aspects of "public" vs "private" benefits is interesting. It points to agricultural users as "free riders" securing "private" benefits and touts that all environmental uses are "public" and benefit a wide cross-section of the community that cannot be distinguished. This approach fails to recognize the current water rights system and will clearly penalize agricultural users regardless of how efficient they may become. With an agriculture based economy, the County of Butte opposes this type of "user fee" unless it is more clearly and equitably defined and is supportive of the needs of agriculture. In addition, "water rich" northern California is not anxious to be taxed for supplying water to other parts of the state.

The CALFED Program needs to clarify their financing plan and specify their sources of funding for the duration of the Program. Clearly, the discussions regarding new bonds, new fees, and proposed budget appropriations need to be incorporated into a very specific, comprehensive finance plan for the duration of the Program that is available for public review. To proceed with a program of this magnitude without secured funding would be remiss.

CONCLUSIONS

The County of Butte understands that the CALFED Bay-Delta Program is one of the largest restoration and water management programs in the world. Its purpose is to develop and implement a long-term comprehensive plan that will restore health and improve water management for beneficial uses of the Bay-Delta system. The Delta is the primary source of fresh water to two-thirds of the state's 32 million residents and the foundation of California's agriculture industry, irrigating 45 % of the nation's produce. In addition, it is the home of extensive environmental diversity, supporting more than 750 plant and animal species. This diversity adds to the scope of the task at hand and makes it imperative that the CALFED Bay-Delta Program is successful.

The County of Butte is concerned about the intended use of the PEIS and how specific implementation actions will move forward. The County of Butte protests the use of this draft environmental document as the basis for setting future environmental policy. The data and analysis provided in the PEIS do not provide the necessary level of detail. The programmatic analysis is inadequate and should be augmented by a more site-specific analysis which discusses in depth the potential associated negative impacts of each proposed action. The use of broad sweeping environmental assessments that fail to capture economic and quality of life impacts is inadequate to assess a program of this large of scale.

In conclusion, CALFED seems to have forgotten their concept of everybody getting better together. Our evaluation of the Program outlined in the PEIS fails to reveal what rural counties stand to gain. CALFED must provide written assurances that the Program will address the aforementioned issues before proceeding with the Record of Decision. There must be a commitment that rural counties, such as the County of Butte, will be protected throughout the implementation of the CALFED Bay-Delta Program so that **we all do indeed get better together.**

Sincerely,



Jane Dolan, Chair
Butte County Board of Supervisors

cc: Butte County Water Commission
Butte Basin Water Users Association